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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/769,047	01/30/2004	S. Brad Herner	MA-100-I	7037
64948	7590	12/28/2006	EXAMINER	
VIERRA MAGEN/SANDISK CORPORATION 575 MARKET STREET SUITE 2500 SAN FRANCISCO, CA 94105			CHEN, BRET P	
			ART UNIT	PAPER NUMBER
			1762	
SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE		DELIVERY MODE	
3 MONTHS	12/28/2006		PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/769,047	HERNER ET AL.
	<b>Examiner</b> B. Chen	<b>Art Unit</b> 1762

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 11 October 2006.

2a) This action is FINAL.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 2-5,7-11 and 13-19 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 2-5,7-11 and 13-19 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.

5) Notice of Informal Patent Application

6) Other: \_\_\_\_\_.

### **DETAILED ACTION**

Claims 2-5, 7-11, 13-19 are pending in this application, which is an RCE of Serial Number 10/769,047. Newly added claims 17-19; canceled claims 1, 6, 12; and amended claims 2, 7, 13 are noted.

In addition, the arguments provided on pp.6-7 of the response dated 10/11/06 were deemed persuasive.

#### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/11/06 has been entered.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 2-5, 7-11, 13-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Noda et al. (6,905,963).** Noda discloses a semiconductor device fabricating method for forming a boron doped polysilicon film on one or more substrates in a reaction furnace of a low

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pressure CVD apparatus by using SiH<sub>4</sub> and BCl<sub>3</sub> as reaction gases, comprising loading one or more substrates into the reaction furnace and forming the boron doped silicon film at a temperature of about 460 to 600°C (col.2 lines 25-46). A substrate boat can be utilized to hold the substrates (col.2 lines 65-67 and Figure 1) and a purge gas of nitrogen is used (col.6 lines 1-19). The partial pressures of the precursors (example 1), and the flow rates (example 2) are varied to optimize film properties. However, the reference remains silent on an average concentration of boron within the film.

It is first noted that the reference clearly teaches of forming an as-deposited polysilicon film at a low temperature. It is the examiner's position that based on the arguments provided in the applicant's previous response, the appropriate boron concentration must be present. Regardless, to vary the composition would have been obvious with the expectation of obtaining similar results.

In addition, the reference fails to teach the appropriate temperature range. It is noted that Noda's temperature range overlaps the applicant's claimed temperature range. Overlapping ranges are *prima facie* evidence of obviousness. It would have been obvious to one having ordinary skill in the art to have selected the portion of Noda's temperature range that corresponds to the claimed range.

The limitations of claims 2-5, 7-11, and 13-16 have been addressed above.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to B. Chen whose telephone number is (571) 272-1417. The examiner can normally be reached on 7:30am - 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Timothy Meeks can be reached on (571) 272-1423. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Bc  
12/23/06



BRET CHEN  
PRIMARY EXAMINER